

# Introduction & Index

## The Request for Information (RFI) Process

These flow charts are designed to guide the user through the process of responding to requests for information that may or may not fall under the Freedom of Information Act.

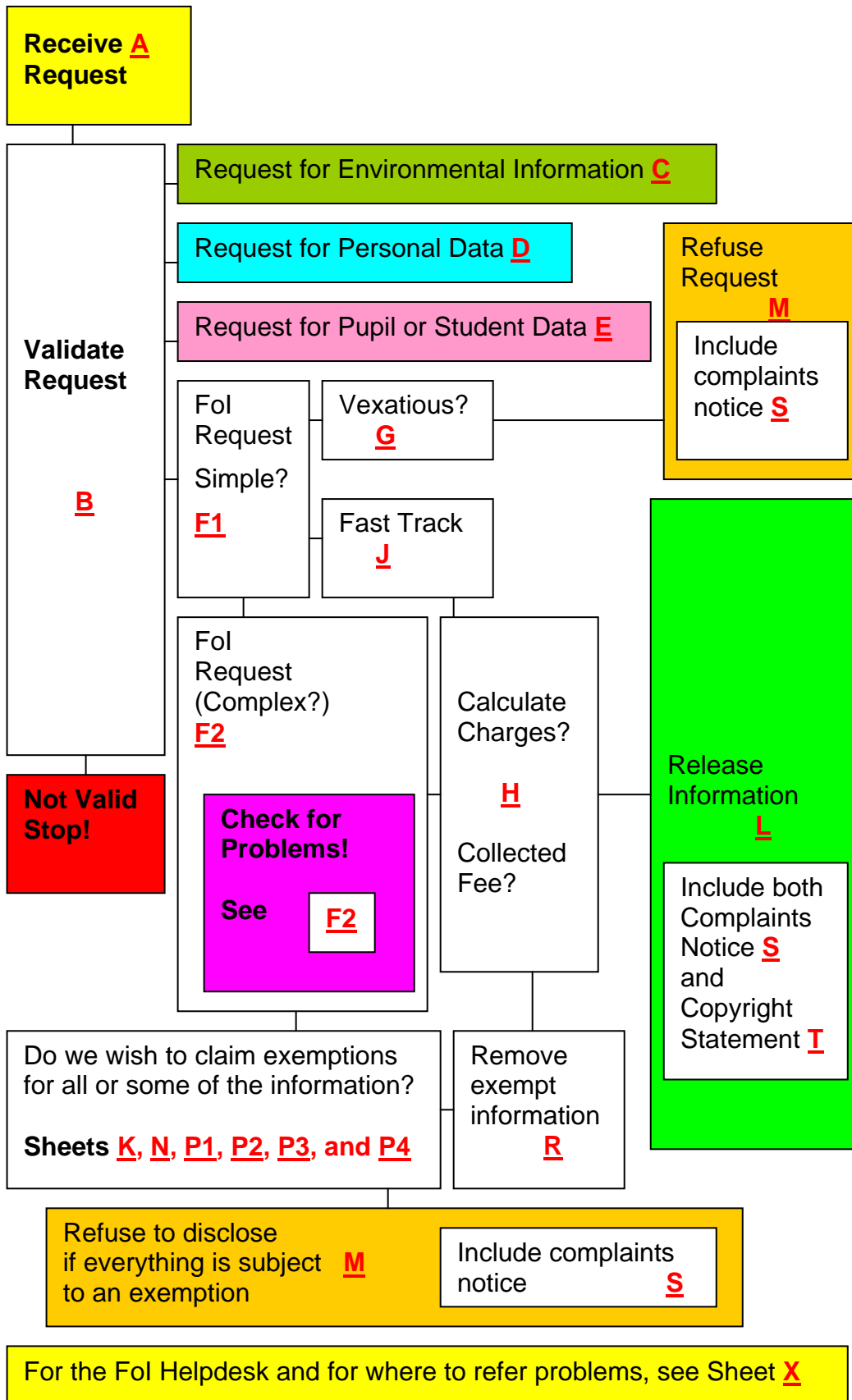
The charts are deliberately simple and easy to follow. They do not contain everything about the process nor do they present a fixed or final version of the process. The law and guidance change, so it will be necessary for regular updates to be made and users should always use this latest version.

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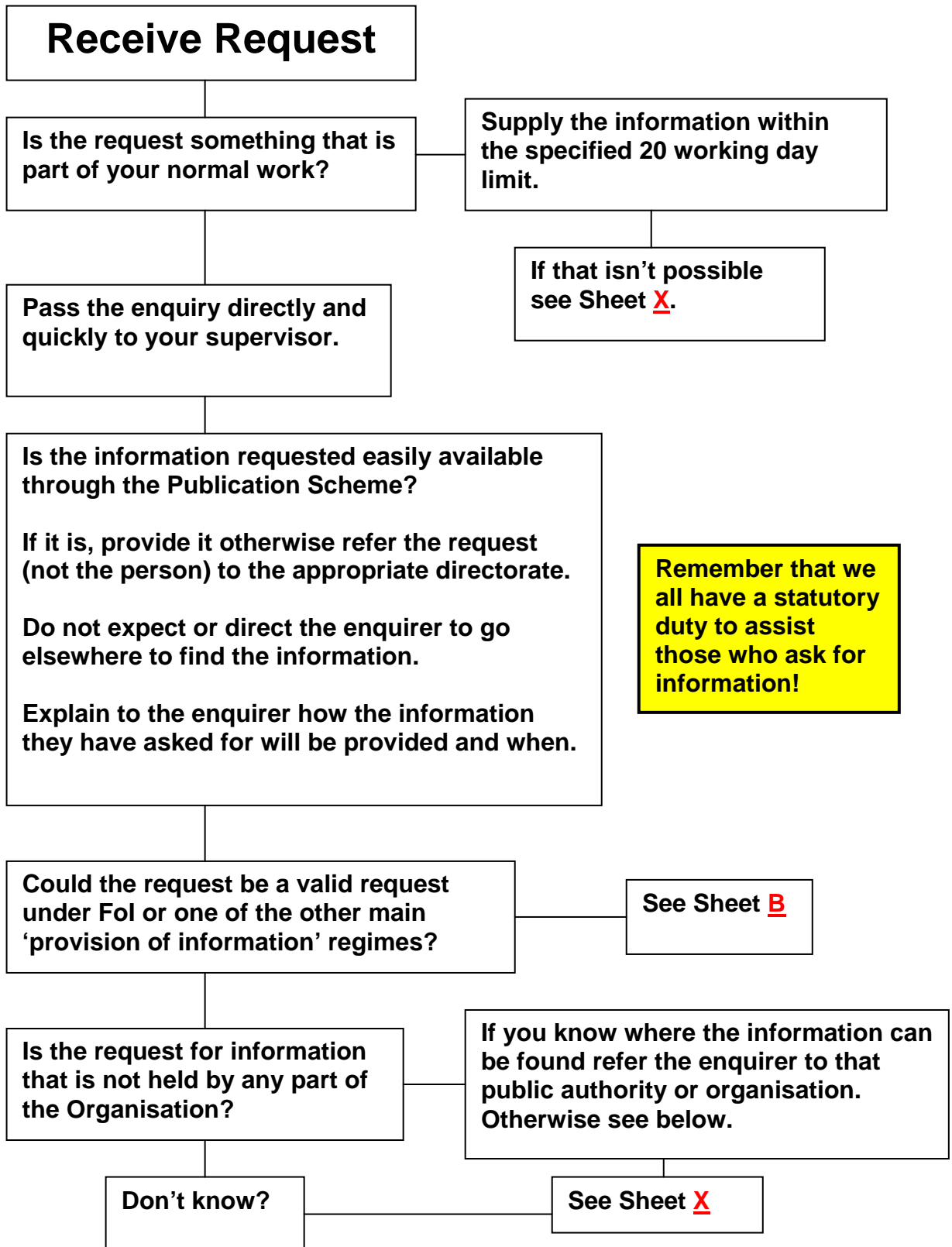
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# The Request for Information (RFI) Process

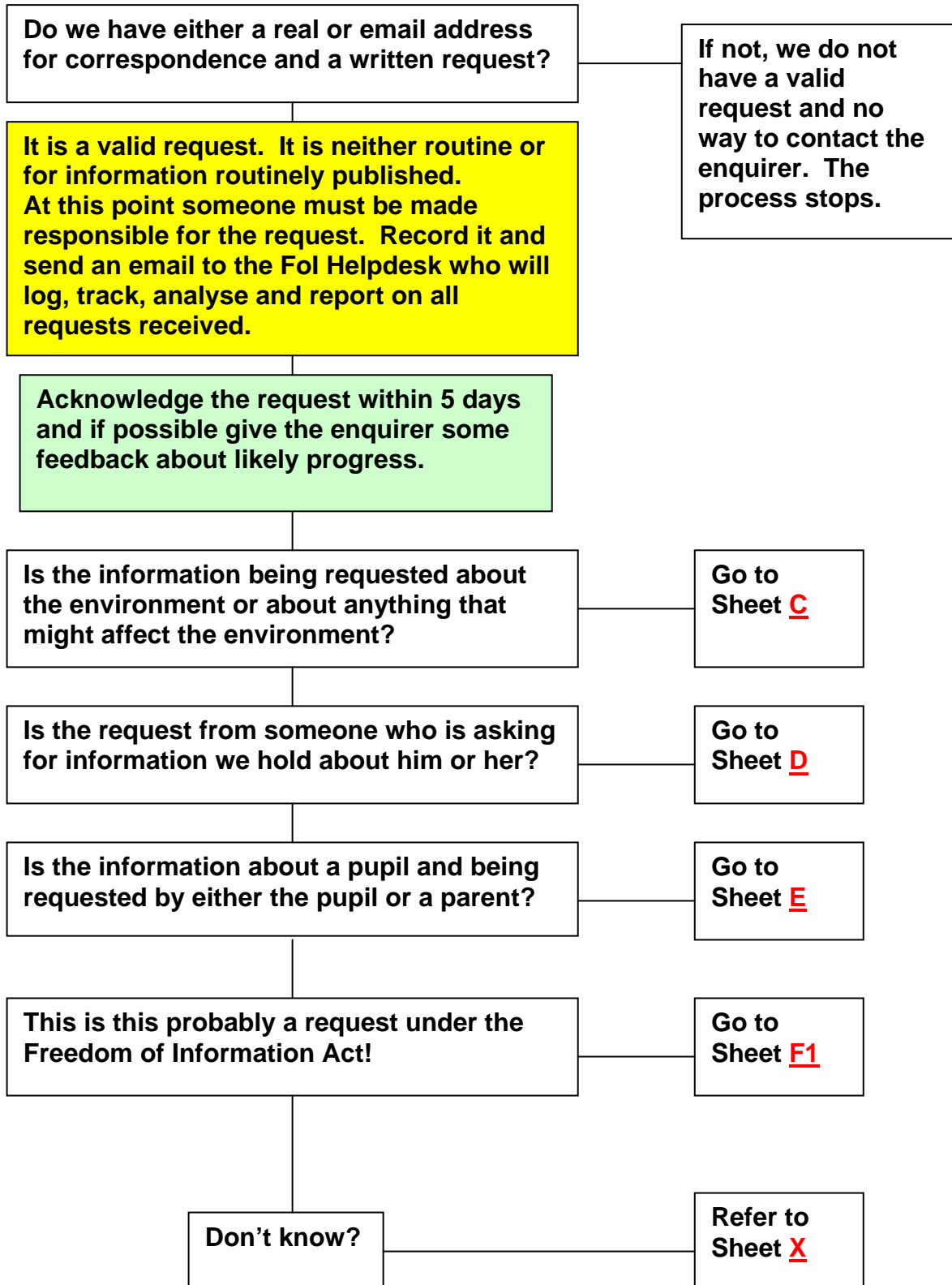
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## Validate Request for Information



## Requests for Environmental Information

The request does not need to be in writing, nor need it mention the Environmental Information Regulations (EIR).

The information requested must exist in some material form.

The definition of environmental information is very wide. It includes anything to do with the natural or built environment or anything that might affect either. It specifically covers issues such as noise, waste, energy, emissions, human health and safety, conditions of human life, the food chain and cultural sites, as well as any measures, policies, legislation, plans or programmes that may affect the environment.

The key differences between Fol and EIR are as follows.

- An EIR request need not be in writing.
- The 20 days may be extended to 40 for complex request.
- Requests are to be free or only a small/reasonable fee.
- Requests cannot be refused on cost grounds.
- May be refused if the request is manifestly unreasonable.
- May be refused if the request is too general.
- Access to internal communications can be refused.
- Access to emissions information cannot be refused on confidentiality, commercial interest, personal or voluntary data or environmental protection grounds.

Otherwise most environmental information requests can be treated in much the same way as those for Fol. Refer to Sheet **E**.

Not Sure?

Refer to sheet **X**

## **Personal Data (Subject Access Request)**

Any person can ask to access any information about them that is held by the authority.

Requests must be in writing but people do not have to complete the authority's Subject Access Request (SAR) Form if they do not wish to.

However, a completed SAR form will help to guide us through the whole Subject Access Process so we recommend that an SAR form is to be completed for our own use, even if the enquirer does not want to do it themselves. All the questions asked on the form will need to be answered in order to establish identity and completing the form will help to guide you through the process.

We must always ensure that the person making the request is actually identified as the person he or she says they are.

We do not, as a matter of policy, charge people for access to their information, though that option is open to us should we wish to do so. Access fees are limited to £10, plus any copying charges.

If there is any information that we do not wish to allow the person to see, we must apply and record a valid Data Protection Act (DPA) exemption from disclosure. This must be explained to the applicant.

We have 40 (calendar) days to provide access to the information.

Not sure about any of this?

Refer to sheet **X**

## Requests for Educational Records

These Regulations are designed to regulate access to school and college records, by the pupils or their parents. Though requests will usually be made directly to the school, where a school has shut or there are other difficulties, the request may be made to the County Council.

The regulations provide a very similar to access regime to that of the Data Protection Act. The main differences being that access should be provided within 15 school days and no fee may be charged simply to access the information. However there is a complex set rate of charges set out for providing photocopies of the records.

The access issues here are very similar to those set out for Data Protection 'Subject Access Requests', see Sheet **D**.

Not Sure?

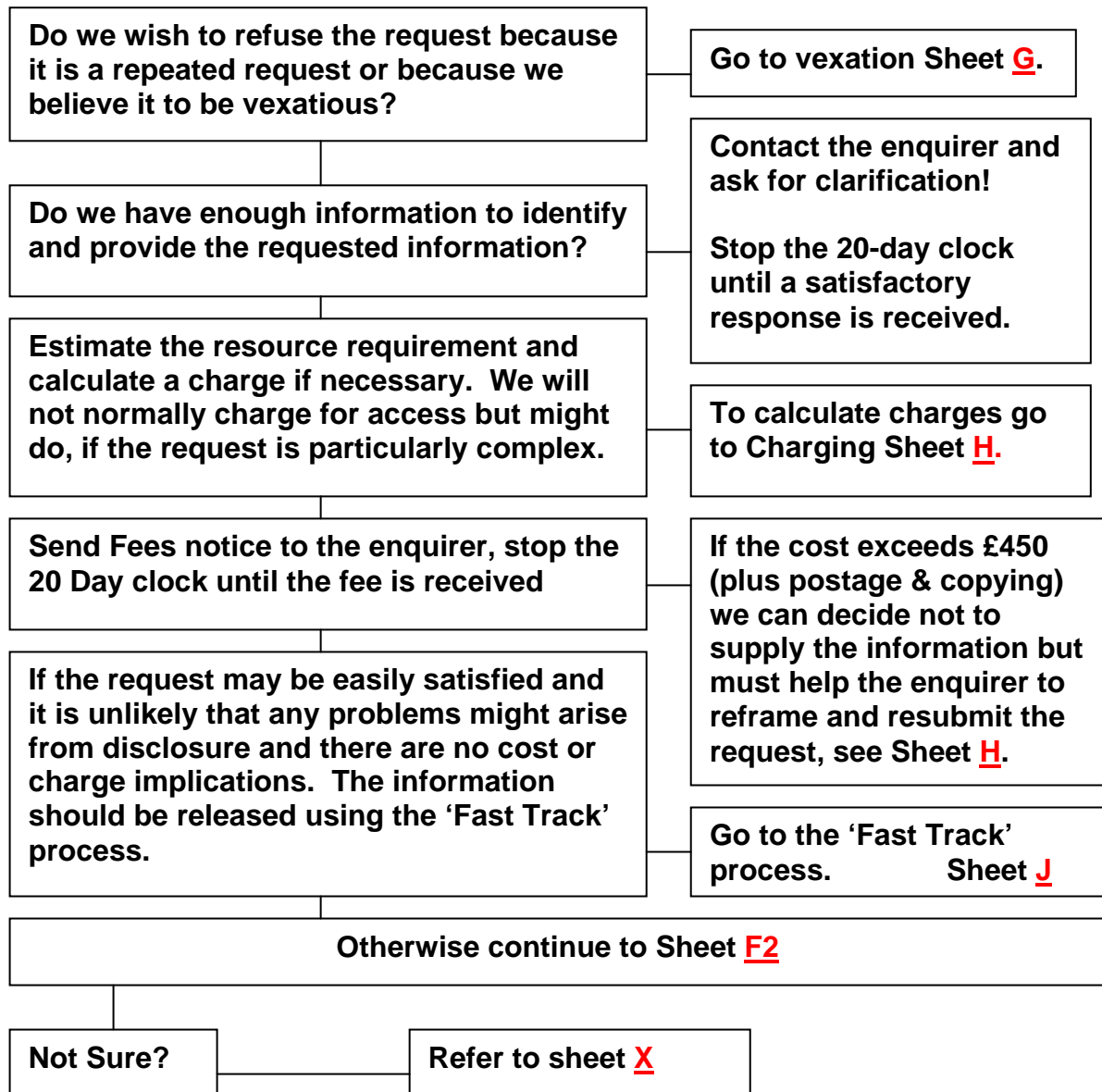
Refer to sheet **X**

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# Freedom of Information

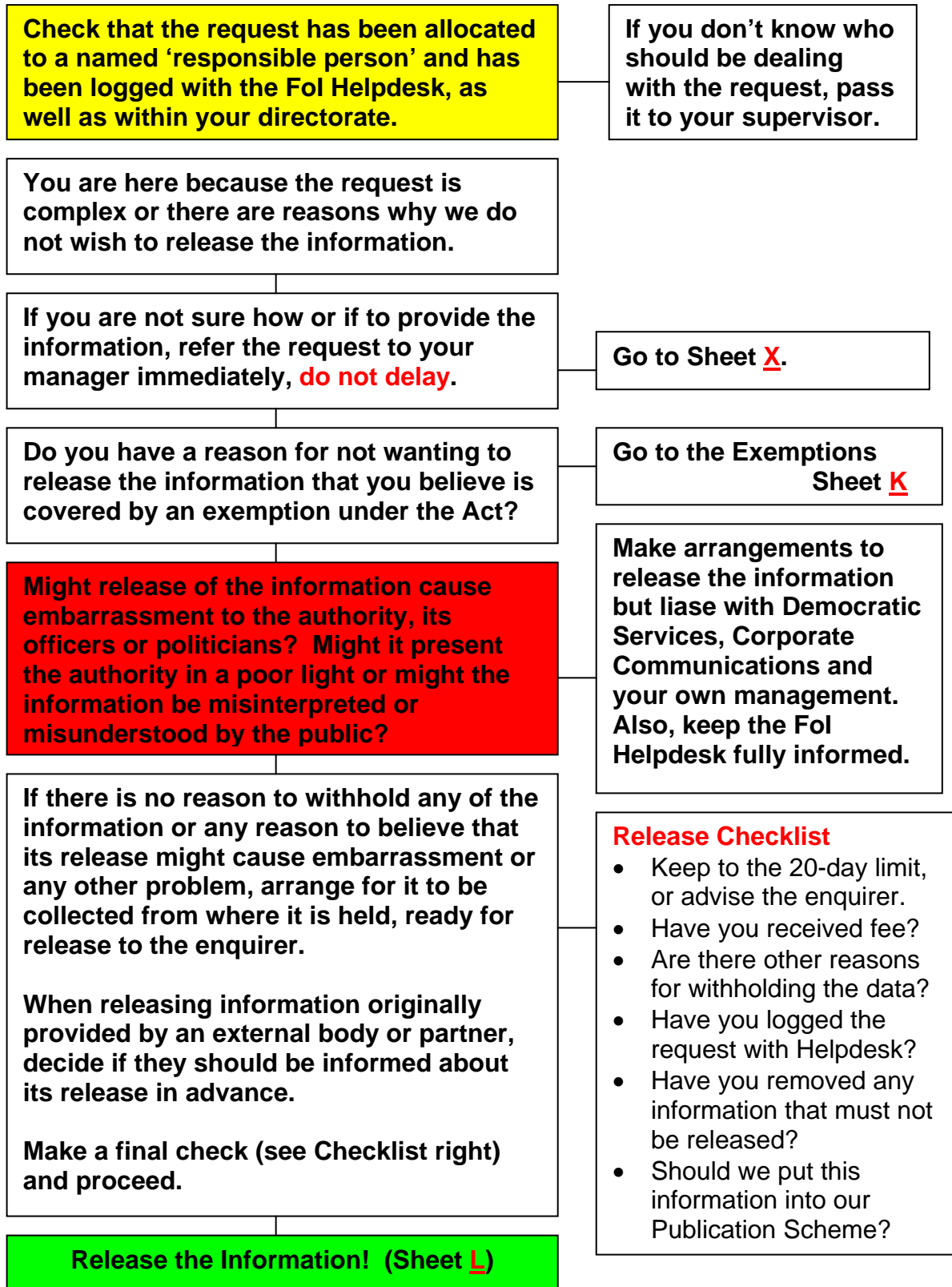
Trivial requests, those that would be addressed as part of your normal work and requests for information from the Publications Scheme, need not be recorded. But anything else needs to be allocated to a specific person & recorded by both the directorate responding to the enquiry and the Fol Helpdesk.



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## Freedom of Information



## Vexatious or Repeated Requests

Repeated requests, that are very similar, from the same or linked applicants may be refused unless “a reasonable interval” has passed since the previous request was received. What is ‘reasonable’ will depend on the nature of the information being requested but government guidance suggests 60 days.

Vexatious requests may also be refused. The Act does not specify what constitutes a vexatious request but this exemption is designed to allow authorities to avoid numerous requests of a similar nature from individuals and members of pressure groups, aimed at disrupting the business flow of the authority.

Any refusal should be notified to the enquirer within 20 working days of receiving the request, explaining why the request has been refused and providing details of the complaints procedure. Sheet **S**.

The FoI Helpdesk should be consulted about any refusal to provide information. Go to Sheet **X**.

Issue a refusal notice, if the FoI Helpdesk agrees to this. The notice should be copied to the Helpdesk. Sheet **X**.

Go to Refusing a Request, Sheet **M**.

Not Sure?

Refer to sheet **X**

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## Charges (Fees)

Estimate the number of hours you will spend processing this information request and calculate the cost by multiplying the number of hours by £25. If the total estimated value of this work is less than £450, we must process the request free of charge (except for disbursement costs - see box below). In your calculation, you cannot include the time needed to consult with third parties, apply exemptions or find the information if your record-keeping is poor.

Where it is estimated that the cost of responding to a specific request (or series of linked requests made within a 60 day period) will exceed the appropriate limit of £450, contact the enquirer to inform them what we can release within the limit. If the enquirer insists on the scope of the original request, the FOI officer will evaluate the business case for responding to the request and if it is appropriate to seek to recover the full operational costs of our response.

### Include

**Reasonable resources (time) needed to find and retrieve the information.**

### Exclude

**Time needed because of poor record keeping and to assess the request or remove exempted information from that supplied.**

**Calculate 'disbursement' costs using the table below. These include postage, copying printing and conversion costs. These charges will be waived if less than £25 for individuals or £10 for commercial organisations.**

**If it is appropriate to charge fees (operational costs and/or disbursements) for the information we **must** inform the enquirer of the fee and 'stop the 20 working day clock' until the fee is paid. Inform the enquirer by issuing an accurate, fixed quotation. If we do not receive the fee within three months the request lapses and we do not need to deal with the case any further.**

Category	Charges (inclusive of VAT & subject to £25 waiver for individuals, £10 for businesses)
<b>Postal charge</b> – normally first class	actual cost
<b>Printing or copying Charges</b>	
• A4 copy (or smaller) Monochrome	10p per sheet of paper
• A4 copy (or smaller) Colour	20p per sheet of paper
• A3 copy Monochrome	20p per sheet of paper
• A3 copy Colour	40p per sheet of paper
• >A3 Plans Colour	£20
<b>Costs for electronic data transfer</b>	
• Transfer of data	£25 per hour
• CD	£0.25 each

## **Fast Track for simple requests**

- Where a valid request is clear and easily understood.
- The information resides within one directorate.
- When the information requested will pose no likely problems of embarrassment to the authority or misunderstanding by the public.
- Where the authority does not choose to request a fee.
- The request is for information to be supplied in a convenient form.
- Documents will not need to be edited or have content removed.

The request must be allocated to a specific person'. If you cannot deal with it allocate it to someone specific or refer it to your manager.

The person dealing with the request must log it and must also notify the FoI Helpdesk, noting the date the request was received and the name of the officer responsible for servicing it.

Locate and retrieve and copy (if necessary) the information. The officer dealing with the request will need to retrieve the information or arrange for others to do so but must keep within the time limit.

Provide personal access or despatch the information to the enquirer.

Tell the FoI Helpdesk how and when the information was provided.

Consider if the information requested should now be included in our Publication Scheme.

Not Sure?

Refer to sheet **F1**

## Claiming an Exemption

If you believe that some of the information requested should be withheld from because one of the exemptions applies, you must explain why using the Disclosure Form provided by the FOI Helpdesk countersigned by your **Director**. Pass it quickly (within 10 working days) to **The Exemptions Team** who will review your claim and decide if your case for an exemption has been made and then if disclosure is in the public interest. You will need to consult your manager or Information Agent (Sheet **X**) decide on the exemption you wish to claim and explain why it applies. Sheets **P1** to **P4** provide a brief summary of the main exemptions, a more full explanation is available from the Managing Information Web Pages. Your Information Agent or the FOI Helpdesk can advise you about the exemptions.

**If the Exemptions Team agrees the exemption claimed.**

If the accepted exemption is an 'Absolute Exemption', the officer who is dealing with the request must respond to the enquirer explaining that this information is exempt from disclosure under the FOI Act. The officer may or may not need to confirm or deny that the information exists. See the Exemptions Sheets **P1** to **P4**.

If the exemption is not 'conditional' the **Exemptions Team** will have considered the public interest in disclosure and will decide if it is in the public interest for the information to be disclosed. If they decide that we should not disclose, refuse the request.

Refusing a request, Sheet **M**

**If the Exemptions Team rejects the exemption claimed.**

Release information, Sheet **L**

Unsure?

Sheet **X**

**Note**, most exemptions eventually expire, so do not assume that information once judged to be exempt from disclosure is still exempt. See Sheets **P1** to **P4**

## Releasing Information

When we provide access to the information the following checks are needed and this process followed, to ensure that nothing is forgotten.

### Checklist

- Have we stayed within the 20 working day limit? If not apologise!
- Have we checked and addressed possible problems? (Sheet **F1**)
- Have we requested & received a fee? Thank enquirer or chase!
- Have we logged the request progress with the Fol helpdesk?
- Have we removed any information not to be released? (Sheet **R**)
- Will we include this information in our Publication Scheme?
- Have we provided access in the form requested?
- Have we consulted any affected third parties? (Sheet **W**)

### Respond to the applicant

1. Advise that the information is held and is being provided.
2. Provide details of any of the information that will be withheld and explain why. For example provide and explain any exemptions.
3. Send the information if that is what has been requested.
4. Ask the applicant to acknowledge receipt.
5. Arrange to provide access to the applicant if that is appropriate.
6. Advise the applicant about the complaints process. (Sheet **S**)
7. Include copyright notice on the information released. (Sheet **I**)

Not Sure?

Refer to sheet **X**

## Refusing a Request for Information

When we refuse access to information the following checks are needed and this process must be followed to ensure that nothing is forgotten.

### Checklist

- Are we within the 20 working day limit? If not apologise!
- Can we justify and explain the claimed exemption?
- Have the **Exemptions Team** endorsed the decision to withhold?
- Had we requested a fee? If so apologise and return the fee if all the information requested has been exempted!
- Have we logged the request progress with the Fol helpdesk?
- Can we say when the information will be available? (**P1** to **P4**)

### Respond to the applicant

1. Tell the applicant if the information is held unless we are also claiming an exemption from the duty to do so.
2. Provide a full and easily understood explanation of why we will not be providing access to all the requested information.
3. Provide that part of the requested information that is not being exempted from disclosure.
4. Offer to assist the applicant to submit a revised application for information that we can supply, if that is appropriate.
5. Advise the applicant about the complaints process. (Sheet **S**)

Not Sure?

Refer to sheet **X**

## The Public Interest Test

The **Exemptions Team** will decide if it is the public interest to withhold or release information covered by an exemption that is not absolute.

There are several factors they will bear in mind when deciding and these are set out below.

The final decision will always be a difficult personal judgment and will always be open to challenge, so the **Exemptions Team** will record all the arguments and reasoning behind their final decision.

Further guidance and examples are available from the Information Commissioner's web site in his [Awareness Guide 3](#).

### Decide if disclosure will serve any of the following aims.

- Further the understanding of and participation in public debate?
- Promote the accountability and transparency of our decisions?
- Promote accountability and transparency of our public spending?
- Allow individuals and companies to understand our decisions?
- Bring to light information affecting public health and public safety?
- Increase public confidence in official scientific advice?

### The following must be ignored when deciding the public interest.

- The requested information is of interest to members of the public.
- Disclosure would reveal incompetence or corruption.
- Disclosure would cause embarrassment.
- The information may be misunderstood or misinterpreted.
- Information is incomplete or out of context and may be misleading.

Freedom of Information is designed to move the provision of public authority information away from 'need to know' to 'right to know'. If you decide to withhold information make sure you have good reason!

Not Sure?

Refer to sheet **X**

## **The Exemptions**

(These apply to the specific information only not to whole documents)

Only a brief summary of some of the possible exemptions is given here. Refer to the Exemptions Guide published on the Managing Information web pages. For more detailed guidance contact the Fol Helpdesk.

### **Information available by other means**

Disclosure is absolutely exempt but there is a duty to confirm or deny the existence of the information.

**(Exemption applies while information remains otherwise available)**

This covers information that is easily available from other sources even if that entails paying for access.

Registered property details, available from 'Land Registry' for example.

### **Information that will be published**

Disclosure is exempt, subject to a Public Interest Test (Sheet **N**). If the information would be disclosed if you confirm or deny it exists, there is no need to do so. **(Exemption expires on publication)**

This covers information that will be published (though a definite date should be stated). Drafts and correspondence are covered but only until publication.

Committee Minutes are an example.

### **Information that could endanger the health or safety of others**

Disclosure is exempt subject to a Public Interest Test (Sheet **N**). A duty to confirm or deny does not arise if to do so would also compromise the health or safety of the individual. **(Exemption does not expire)**

If disclosure would endanger anyone's physical or mental health or safety.

The location of a women's refuge would be a good example.

### **Information about people where disclosure would breach DPA**

If disclosure would breach one of the principles of the Data Protection Act then the information is absolutely exempt from disclosure. In some cases, we need not even confirm or deny that the information exists.

**(Exemption expires when the person dies, assumed after age 100 years)**

Where disclosure of personal data would breach a Data Protection Act.

Insurance companies asking about employee's HIV status are an example.

## The Exemptions

(These apply to the specific information only not to whole documents)

Only a brief summary of some of the possible exemptions is given here. Refer to the Exemptions Guide published on the Managing Information web pages. For more detailed guidance contact the Fol Helpdesk.

**Personal Information where disclosure will not breach DPA Principles**  
Disclosure is subject to a public interest test (Sheet **N**) this also applies to the duty to confirm or deny the existence of the information.  
**(Exemption expires when the person dies)**

This covers personal information where no DPA Act principle would be breached by disclosure.

Request for a director's salary or councillor's expenses for example.

**Information offered and accepted in confidence**  
Disclosure is absolutely exempt. If to confirm or deny its existence would compromise the information, there is no need to do so.  
**(Doesn't expire but may not be 'actionable' after the person's death)**

**However**, we should not accept information in confidence, unless to refuse it would compromise our ability to deliver services. Any officer accepting information in confidence may be required to justify this to the Information Commissioner. To be exempt the information must be from another person or organisation and disclosure must be an 'actionable' breach of confidence.

An example might be where confidential information about a company's future commercial plans that could affect share prices are requested and provided because they are needed for a council's development plan.

**Commercially Confidential Information**  
Trade secrets and commercially confidential information are exempt from disclosure subject to a public interest test (Sheet **N**). Where to deny or confirm would affect those interests there is no need to do so but there is a duty to confirm or deny the holding of any trade secret.  
**(Exemption expires after 30 years)**

In order to withhold any commercial information there is a need to establish the actual likely financial loss and other details (Sheet **X**). Never accept commercial information in confidence, as you may have to disclose the information and that could leave the authority exposed to legal action.

For example tender bids after the order has been placed.

## The Exemptions

(These apply to the specific information only not to whole documents)

Only a brief summary of some of the possible exemptions is given here. Refer to the Exemptions Guide published on the Managing Information web pages. For more detailed guidance contact the Fol Helpdesk.

**Information about criminal investigations** is exempt subject to a public interest test (see Sheet **N**). There is no duty to confirm or deny the existence of the information. **(Exemption expires after 30 years)**

This exemption would apply to investigations by Trading Standards into fraudulent traders for example.

**Information relating to law enforcement processes** is exempt from disclosure subject to a public interest test (Sheet **N**) as is the duty to confirm or deny. **(Exemption expires after 100 years)**

This covers information about the processes and arrangements used to enforce the law.

Trading Standards' schedule of petrol station inspections for example.

**Information provided by a lawyer or other person when any legal action is possible** is exempt subject to a public interest test (Sheet **N**) as is the duty to confirm or deny. **(Exemption expires after 30 years)**

The information would be likely to attract legal privilege in a court of law.

An example would be legal or expert advice to the authority.

**Information where disclosure is prohibited by law** is exempt from disclosure under the Freedom of Information Act. **(Exemption may not expire even after 100 years)**

Information subject to a Court Order or a statutory restriction.

Adoption Records may not be disclosed by law for example.

## **The Exemptions**

(These apply to the specific information only not to whole documents)

**Only a brief summary of some of the possible exemptions is given here. Refer to the Exemptions Guide published on the Managing Information web pages. For more detailed guidance contact the Fol Helpdesk.**

**Information that could prejudice the conduct of public affairs** is exempt subject to a public interest test. The secretary of state will appoint a qualified person (either the Chief Executive or Monitoring Officer?) who may certify that specific information should not be disclosed or confirmed or denied. **(Exemption expires after 30 years)**

This could be used to protect information where a free and frank discussion or political briefing could be inhibited. Our understanding is that this cannot be applied as a 'blanket' ban on all information of a particular kind.

This might be applied to a party briefing and discussion or an officers' brainstorming session.

**Any communication with the Royal Family or the Royal Household** may be exempt from disclosure subject to a public interest test (Sheet **N**) as is the duty to confirm or deny.

**(Exemption expires after 30 years, or 60 years for honours)**

This covers any Royal communications including discussions about the honours list and royal visits.

**Information where disclosure could prejudice National Security** is absolutely exempt from disclosure as is the duty to confirm or deny.

**(Exemption does not expire)**

This can cover things like Public Protection's emergency evacuation plans.

## Removing (Redacting) Information

The Freedom of Information Act provides access to 'Information'. This will usually (but not always) be best achieved by providing access to documents. However, where documents are fragile or where access would disclose other information (requested or not) that must not be disclosed or where an exemption applies to on some but not all, of the information, we need to find ways of providing just the information we can disclose.

If possible discuss how best to provide access with the enquirer.

If providing the documents with exempt information removed would render a document meaningless, you can refuse to do so.

In most cases we will be able to provide some of the information, either by producing a written report or summary or by providing copies of documents with the exempt information removed. Where possible leave spaces to show where removed information is missing and explain in each case why it has been removed.

Removing information from electronic documents is relatively easy. But be careful when attempting this with hard copy documents. The only safe way is to 'cut' exempt passages using a scalpel and photocopy the result. An alternative is to 'scan' the document and edit the electronic result. Currently the Council does not have a dedicated system for doing this but we anticipate that any new EDRMS system will allow this.

Retain copies of all 'edited' documents and written summaries for repeated use or in the event of a challenge to our removal of the information. Make sure these are properly filed within the Records management system so they can be found.

Not Sure?

Refer to sheet **X**

## **The Complaints Process**

Whenever we contact enquirers we should tell them how to complain. Please include a copy of the statement below in your response and ensure that you have provided your telephone number.

### **How to Complain about the service you have received**

If you are unhappy with the decisions made in relation to your request, you should use the standard complaints process.

<<Insert address>>

If you are not content with the outcome of the internal review, you have a right to apply directly to the Information Commissioner for a decision.

The Information Commissioner can be contacted at:  
Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

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## **Copyright Statement**

Whenever we provide information in response to a request we must include a copy of the statement below.

### **Copyright Statement**

Information supplied in response to any **Freedom of Information Act** request may be subject to copyright.

A single copy of information supplied under the Freedom of Information Act may only be used for personal, non-commercial research or study, unless stated otherwise. It must not be passed to others, copied or re-published in whole or in part without permission from the copyright owner. Any other use requires written permission from the copyright holder.

Any copyright statement that forms part of or in any way refers to the information provided must not be altered or removed.

**Also include Complaints Notice (Sheet [S](#))**

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## Third Parties

Third Parties are people or organisations that are party to the information, indeed they may be private companies, people or other local authorities that produced the information in the first place but they do not 'own' the information which is held by the County Council. For example a contract produced by a company but signed by the County Council is held as the property of the County Council. It may however contain information about the other party.

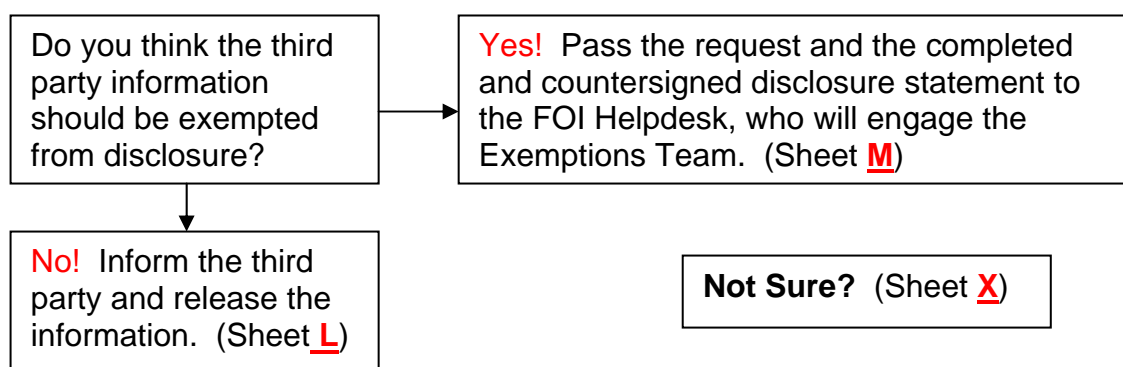
**The Freedom of Information Act provides no rights for third parties. Under the Act a third party has no right to be consulted when the information has been requested, no right to object to it being published and no right of appeal.**

However, the Lord Chancellor's Guidance does suggest that it is 'good practice' to inform and consult with the third party, preferably even before any information is requested.

When deciding if third party information should be disclosed, it is sensible to talk to them to get their views and to give them an opportunity to make their case for having specific information withheld (exempted) from disclosure. However, it remains the authority's responsibility to only apply valid exemptions and to determine the public interest in disclosure where this is appropriate.

The third party may not understand these issues or the law so we must be very clear about what we should be doing to stay within the law. This may in extreme cases lead to the third party taking legal action against the authority, so always consult with the solicitors when considering the issues.

If an exemption is claimed, the **Exemptions Team** will be responsible for deciding its validity.



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## Referral

If you need to refer any request or action because you cannot respond appropriately yourself, please follow the process in the box below.

Please make sure that all referrals go to someone who is immediately available, do not delay as the 20 working day deadline clock is ticking!

A list of all Information Contacts is available from <<insert>>

### The FoI Helpdesk



<<insert>>



[<<insert>>](#)

#### **First contact your own line-manager.**

If you cannot deal with a request for information or enquiry yourself immediately consult your supervisor/information agent or pass the enquiry to your line-manager. If managers cannot address the issue themselves, they must pass it to someone who can deal with it or get help from an Information contact or the FoI Helpdesk.

If the request concerns information managed by another directorate pass it directly to the appropriate directorate or, if you don't know who needs to deal with it, please pass it to the FOI helpdesk.

Record the enquiry and note the person you passed it to and when.